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June 16, 2004

**VIA HAND DELIVERY**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
The Portals II  
445 - 12<sup>th</sup> Street, S.W.  
Room TW-A325  
Washington, D.C. 20554

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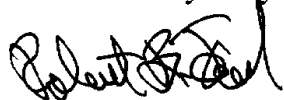
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re: Digital Audio Broadcasting Systems and Their Impact on the Terrestrial  
Radio Broadcast Service, MM Docket No. 99-325 Further Notice of  
Proposed Rulemaking

Dear Ms. Dortch

On behalf of Mt. Wilson FM Broadcasters, Inc., licensee of station KMZT-FM, Los Angeles, California, there are herewith transmitted an original and four copies of its "Comments" in the above-referenced proceeding.

Yours very truly



Robert B. Jacobi

RBJ:btc

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

BEFORE THE

# Federal Communications Commission

In the Matter of:

Digital Audio Broadcasting Systems  
and Their Impact on the Terrestrial  
Radio Broadcast Service

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)  
) MM Docket No. 99-325

## COMMENTS OF MT. WILSON FM BROADCASTERS, INC.

Mt. Wilson FM Broadcasters, Inc., licensee of station KMZT-FM, Los Angeles, California ("Mt. Wilson") respectfully submits Comments in the above-referenced proceeding. These Comments are specifically directed to the matter of Digital Audio Multicasting (Paragraphs 20-22 of the Further Notice of Proposed Rulemaking and Notice of Inquiry).

1. Mt. Wilson opposes the concept of splitting the channel to allow multicasting at least as of the present time for the following reasons:

- A. Multicasting will permit respective FM licensees to effectively double the number of FM stations in the market, thereby violating the multiple ownership rules;
- B. Splitting the channel will derogate the service; and
- C. Adoption of rules at this time is premature.

2. The Commission's multiple ownership rules (Section 73.3555) mandate precise limits on the number of stations in which a single person or a single entity may have a cognizable interest, i.e., eight stations in a market with 45 or more commercial and

non-commercial radio stations and not more than five commercial stations in the same service.<sup>1</sup> Splitting the FM channel to allow multicasting effectively doubles the number of FM stations. For example, Clear Channel and Infinity each own eight stations (the maximum) in the Los Angeles market, five of which are FM facilities. Splitting the FM channel will allow Clear Channel and Infinity to operate 10 separate FM stations and 13 stations cumulatively – thereby violating Section 73.3555. Aside from the rule violation, the overall economic impact on other market licensees would be disastrous. The Commission continues to preach the benefits of diversity and localism; multicasting without appropriate qualifications would essentially signal the death knell of diversity and, concomitantly, an absolute predictable decrease in “localism.”

3. Underlying the Commission’s decision to proceed with the development of digital audio broadcasting (“DAB”) was the commission’s concern that the free over-the-air broadcast service be afforded the opportunity to take advantage of new DAB technology in order to compete effectively with the challenges arising from the then newly authorized satellite digital radio service and, specifically, the enhanced sound fidelity provided by satellite digital radio, (In the Matter of Digital Audio Broadcasting Systems, Notice of Proposed Rulemaking, 15 F.C.C. Rcd. 1722, 1724-25 (1999)).<sup>2</sup>

4. Splitting the HD Radio 96 kbps data stream into multiple data streams contravenes the intended purpose of the IBOC digital FM system – to enable the over-the-air free broadcast service to provide quality digital fidelity equivalent to the satellite

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<sup>1</sup> The problem (violation of the multiple rules) exists as to the present rules and to the prospective rules.

<sup>2</sup> “[W]e anticipate that technical advances will soon permit both AM and FM broadcasters to offer improved digital sound. . .” (Ibid., Para. 5, 1725).

radio service. While dividing the data stream into a 64 kbps MAP channel and a 32 kbps SAC channel results in two separate channels, neither channel is equivalent to the 96 kbps MAP data stream. Indeed, National Public Radio (“NPR”) does not assert equivalence, stating (NPR Final Report, p. 2) as follows:

“The 64 kbps MAP channel behaved identically to the standard 96 kbps MAP channel, featuring blend-to-analog when the digital signal is lost. The 32 kbps SAC channel does not have an analog program backup and mutes once beyond the coverage range.”

With respect to the 64 kbps MAP channel, NPR asserts that the 64 kbps MAP channel is identical to the 96 kbps MAP channel only as to “blending” with the analog channel in the event of signal loss – not as to sound fidelity. With respect to the 32 kbps SAC channel, NPR makes no claims as to sound fidelity. The viability of subdividing the 96 kbps MAP data stream is not the issue; there is no documentation that either of the subdivided channels is the equivalent of the 96 kbps MAP data stream.<sup>3</sup>

5. The “bottom line” is that multicasting results in derogating the superior IBOC 96 kbps MAP data stream. In connection with permitting multicasting of DTV signals, the Commission stated (Fifth Report and Order, 12 F.C.C. Rcd. 12809, 12822 (1997)) as follows:

“Thus, under Section 336(b)(2), the Commission is required to limit ancillary and supplementary services to avoid derogation of any advanced television services that the Commission may require.

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<sup>3</sup> Footnote 42 of the Further Notice of Proposed Rulemaking and Notice of Inquiry, wrongly attributes to NPR the claim that “. . . the 64 kbps channel sounds almost as good as a 96 kbps channel and a 32 kbps channel sounds similar to an analog FM broadcast.” Such claim is made by Mike Janssen in a magazine article published in January, 2004 not by NPR.

Multicasting of DTV signals is statutorily limited to multicasting of signals which do not derogate the primary DTV signal. The NPR proposal to divide the data stream derogates the primary 96 kbps MAP data stream. The statute protects the primary DTV signal from derogation; the Commission should protect the primary IBOC 96 kbps signal from derogation. The logic underlying Section 336(b)(2) applicable to DTV multicasting is equally applicable to FM multicasting.

6. Significant issues remain unresolved:

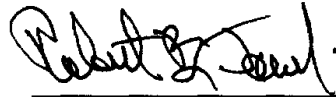
a. Other than NPR and Kenwood and Harris, the broadcast industry has not had the opportunity to participate in the evolving technology;

b. There must be a consensus single standard. Otherwise, initially produced receivers will be rendered obsolete at an early date resulting in consumer confusion, frustration/anger and/or apathy.

As of the present date, only the primary data stream (MAP) will have the analog station as a backup. Such shortcoming will result in utter confusion to the listener. Insofar as the secondary data Stream (SAC), the failure to have a backup will undoubtedly result in consumer frustration/anger. Mt. Wilson does not question the value

of IBOC; it does, however, believe that the matter of multicasting, at this juncture, is premature and will indeed lead to consumer "turnoff."

Respectfully submitted



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Date: June 16, 2004